

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HEMISPHERX BIOPHARMA, INC.

Plaintiff,

v.

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA

Defendant.

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Civil Action No. _____

NOTICE OF REMOVAL

Pursuant to Sections 1332, 1441, and 1446 of Title 28 of the United States Code, Defendant, Travelers Property Casualty Company of America (hereinafter, "Travelers"), hereby gives notice of the removal of this action from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania, and as grounds for removal state as follows:

1. On or about March 21, 2019, Plaintiff, Hemispherx Biopharma, Inc., instituted suit by filing a Complaint against Travelers in the Pennsylvania Court of Common Pleas, Philadelphia County, assigned as Case No. 190302708, which initial pleading set forth the claim for relief under which the action was based. A copy of the Complaint is attached as Exhibit 1, as required by 28 U.S.C. § 1446(a).

2. On or about March 22, 2019, Defendant, Travelers was served with the Complaint. See Affidavit of Service attached hereto as Exhibit 2.

3. The basis for federal court jurisdiction is 28 U.S.C. § 1332, diversity of citizenship, which provides, in relevant part, that federal district courts have original

jurisdiction of civil actions between citizens of different states where the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. “[A]ny civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant... to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a). The Eastern District of Pennsylvania is the district that embraces Philadelphia County.

5. Section 1446(b) provides as follows:

(b) The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

6. This Notice of Removal is timely in that it was filed within 30 days from the point at which Travelers had notice that the action was removable, and less than a year after the commencement of the state court action. See 28 U.S.C. § 1446(b).

7. Upon information and belief, Plaintiff is a Delaware corporation with its principal place of business at the time of the incident located at 1617 JFK Boulevard, Suite 500, Philadelphia, PA. Plaintiff has since relocated its offices to 2117 SW Highway 484, Ocala, FL. See Exhibit 1.

8. Travelers is, and was at the time the Complaint was filed in Pennsylvania state court, a Connecticut corporation with its principal place of business in Hartford, Connecticut at One Tower Square.

9. A copy of this Notice of Removal is being filed with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania, and is being served on counsel of record, in compliance with 28 U.S.C. § 1446(a), (d). See Notice of Filing of Removal as Exhibit 3.

10. Pursuant to 28 U.S.C. § 1446(a), copies “of all process, pleadings, and orders” received by Travelers are attached hereto. Defendant, Travelers has not answered or otherwise responded to the Complaint.

11. Removal of Plaintiff’s case to the United States District Court for the Eastern District of Pennsylvania is required under the circumstances of this case because all parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. See Counts I, II and III of Plaintiff’s Complaint wherein Plaintiff demands judgment in the amount of \$4,500,000.00 in each count.

WHEREFORE, Defendant, Travelers Property Casualty Company of America, respectfully removes this action to the United States District Court for the Eastern District of Pennsylvania for further proceedings pursuant to this Notice.

BUTLER WEIHMULLER KATZ CRAIG LLP

A handwritten signature in black ink, appearing to read "Richard D. Gable, Jr.", written in a cursive style.

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*Attorneys for Defendant, Travelers Property
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Dated: April 16, 2019

CERTIFICATE OF SERVICE

I, Richard D. Gable, Jr., hereby certify that a true and correct copy of the foregoing Notice of Removal, electronically filed this 16th day of April, 2019, has been served on the following counsel of record via the Court's Electronic Filing System:

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